
NATIONAL VEHICLE PROTECTION ASSOCIATION

OVERVIEW of HOUSE BILL 5026

General Description of Proposed Legislation

The products covered by the proposed legislation are anti-theft products with warranties. The products deter the theft of vehicles, assist in their recovery if stolen, and, in the case of product failure, the product warranty protects consumers from the losses associated with the theft to the extent that the consumer's loss exceeds the vehicle's insurance coverage. Similar statutes have been adopted in Arizona, California, Colorado, Florida, Georgia, Hawaii, Illinois, New York, Ohio, Texas, and Wisconsin. The bill's purpose is two-fold:

1. To offer consumers a viable market of vehicle protection products at reasonable prices by preventing over regulation of the product's warranty as an insurance product; and
2. To protect consumers by requiring all manufacturers and distributors of vehicle protection products (the "warrantors") to acquire and maintain a warranty liability reimbursement insurance policy to make sure that the warrantors are financially able to pay all claims.

The Need for Legislation

Our proposed House Bill attempts to establish certainty in the market place concerning treatment of anti-theft products and to protect consumers from warrantors whose financial condition might not be sufficiently sound to make good on their products' warranty. Anti-theft product marketers have encountered claims that the products' warranties constitute insurance products and therefore should be regulated as insurance. Vendors (primarily automobile dealerships) are uncertain if they might be subject to regulation by the Department of Insurance or a claim that they should have registered with the Department of Insurance. These claims are unfounded because, as discussed below, the products have the typical characteristics of product warranties. To regulate the products as insurance would effectively remove the products from the marketplace. Such over regulation would limit the number of persons qualified to sell the products and would increase the cost of the products to a level that would make them too expensive to offer to most consumers.

The Regulatory Framework

The bill creates a very simple compliance structure. Product warrantors register with the Department of Labor and Economic Growth and would otherwise be exempt from regulation under the Michigan's insurance laws if they demonstrate financial responsibility through the use of a reimbursement insurance policy.

Nature of the Protection Product Warranties

The vehicle protection products that are the subject of the proposed legislation commonly are sold with warranties that make representations to the consumer about the performance of the product. The warranties are not sold apart from the sale of a vehicle protection product. The product and warranty are unlike an insurance policy that is offered by a third party in a transaction separate and independent from the sale of the product.

House Bill 5026 would establish a specific exception in the Insurance Code for theft deterrent products sold with warranties. Many manufacturers or product vendors offer consumers a warranty with their product that provides assistance with costs associated with the theft of their vehicle, if the theft occurred

while the manufacturer's theft deterrent products were in use. Examples of these costs would include reimbursement for the insurance policy deductible, assistance with renting a replacement vehicle, the license fees and state sales tax for the replacement vehicle, and other costs not covered by insurance. The product and warranty are not a substitute for vehicle comprehensive insurance coverage. This is a valuable benefit to consumers who purchase these products and is necessary in order to provide a useful warranty to consumers for failure of the product to deter or prevent theft or aid in the vehicle's recovery. Receiving a money-back guarantee or mere replacement of the product hardly assists the consumer who has had their automobile stolen.

Comparable Consumer Products with Warranties

Other products in different industries offer similar warranties:

1. Surge protectors.
2. Bicycle Locks.
3. Engine fuel additives.
4. Fire Safes.

Electric power surge protectors and voltage regulators provide warranties that pay \$5,000 to \$25,000 for damage to electronic equipment for failure of their devices to perform as warranted. Bicycle lock manufacturers offer payments in excess of the value of the lock if the bicycle is stolen. Engine fuel additive product manufacturers offer payments to the consumer if their products do not perform as promised in the warranties. Warranties of this type are common and should be treated as warranties.

Product Information

Examples of anti-theft products are vehicle identification systems (body parts marking and window etching), steering wheel locks (The Club®), alarm systems, ignition disablers, and satellite or radio tracking systems.

Automobile anti-theft products have a proven track record in deterring theft and recovering vehicles in the case of theft. To cite just a few examples for vehicle identification window etch products:

- ✓ Etched vehicles in Michigan showed a 29% decrease in theft rate compared to un-etched vehicles according to Michigan Automobile Theft Prevention Authority/AAA 8-year study involving 29,000 vehicles.
- ✓ American Family Insurance Company reported that etched vehicles had a theft claim frequency 43% lower than that of vehicles without etching.
- ✓ National Car Rental Company reported the theft frequency declined 85% after the Cleveland fleet was marked. The Chicago fleet experienced a 30% increase in recovery rate after marking.
- Over **53,736** motor vehicle thefts occurred in Michigan 2003 with an estimated worth of over **\$365 million** based on a \$6,797 average value per vehicle.
- Michigan's thefts per 100,000 inhabitants were 533.1 compared to a national average of **433.4** per 100,000.

(Source: FBI Uniform Crime Report 2003)

For additional information, contact Steve Young or Bill Zaagman of GCSI at 517/484-6216.

The National Vehicle Protection Association (NVPA) is a trade association of manufacturers who produce and distribute automobile anti-theft products.